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2013 WORKERS' COMPENSATION LEGISLATIVE CHANGES

This is a general overview of workers' compensation legislation passed by the 108th General Assembly. For a complete, detailed review of this information and all workers' compensation bills introduced in this legislative session, please go to www.capitol.tn.gov.

MAXIMUM & MINIMUM BENEFIT CHANGES

Temporary Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2013 through June 30, 2014 is \$918.50 or 110% of the state's average weekly wage.

Permanent Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2013 through June 30, 2014 is \$835.00 or 100% of the state's average weekly wage.

Minimum Weekly Benefit – The minimum weekly benefit rate for injuries occurring July 1, 2013 through June 30, 2014 for both temporary and permanent benefits is \$125.25.

CONFIDENTIALITY OF WORKERS' COMPENSATION INSURANCE POLICY

Public Chapter 50 (SB0124/HB0136) authorizes the Department of Labor and Workforce Development to request and obtain information regarding employer workers' compensation insurance policies in order to ensure compliance with the law. Certain information is considered public record. Any additional information relating to workers' compensation insurance policies is deemed confidential and would not constitute a public record. However, such information may be used by any state agency, or vendor designated by the state, for the purpose of ensuring compliance with the law. This bill became effective on March 26, 2013.

VOLUNTEER FIREFIGHTERS

Public Chapter 210 (SB1174/HB0626) defines "volunteer firefighters" to mean any member or personnel of a fire department, volunteer fire department, rescue squad or volunteer rescue squad, including, but not limited to, a junior member, a board member or an auxiliary member of the department or squad. This bill became effective on April 23, 2013.

EXTRATERRITORIAL WORKERS' COMPENSATION COVERAGE

Public Chapter 367 (SB0432/HB0864) provides that workers from a foreign state who are temporarily performing work in Tennessee for a foreign state employer will be covered under the workers' compensation laws of the foreign state, should an injury occur, if: the foreign state employer has furnished workers' compensation coverage under the laws of the foreign state; the extraterritorial provisions of Tennessee workers' compensation law are recognized in the foreign state; and employees and employers who are covered in Tennessee are exempted from the application of the workers' compensation insurance or similar law in the foreign state. Tennessee employees working in a foreign state temporarily (i.e., no more than 14 days consecutively or no more than 25 days in a calendar year) shall only be entitled to benefits under Tennessee workers' compensation laws if injured incidental to their employment. A Tennessee employee injured while working in a foreign state, other than temporarily, may still receive benefits in Tennessee if: the employment was principally located in Tennessee; the contract for hire was made in Tennessee; or the employee was a Tennessee resident at the time the injury occurred in the foreign state and "there existed a substantial relationship between [Tennessee] and the particular employer and employee relationship." This bill became effective on May 13, 2013.

TEACHERS WHO ARE VICTIMS OF VIOLENT CRIME

Public Chapter 439 (SB0302/HB0362) specifies that the Local Education Agency must continue to pay the teacher's full benefits including health insurance benefits until the earlier of the date on which the teacher is released by the teacher's physician to return to work or the date on which the teacher is determined by the teacher's physician to be permanently disable from returning to work. This bill became effective on May 16, 2013.

EMPLOYEE MISCLASSIFICATION EDUCATION & ENFORCEMENT FUND

Public Chapter 424 (SB0833/HB0551) subjects any construction services provider who misclassifies employees to avoid proper classification for workers' compensation insurance premium calculations by concealing any information pertinent to the computation and application of an experience rating modification factor to a civil penalty. The penalty will also apply to any construction services provider who materially understates or conceals: the amount of their payroll, the number of their employees, or any of the construction services provider's employee's duties. This does not affect a construction services provider's or carrier's duty to provide workers' compensation benefits or any of the construction services provider's or carrier's rights and defenses under the workers' compensation law. This bill becomes effective on July 1, 2013.

EXEMPTION FOR CERTAIN RECOGNIZED RELIGIOUS SECTS

Public Chapter 476 (SB0519/HB0549) exempts a construction services provider who is an individual and who does not meet the other exemption criteria established in present law, but who is a member of a recognized religious sect or division and is an adherent of established tenets or teachers of such sect or division by reason of which such construction services provider is conscientiously opposed to acceptance of the workers' compensation benefits from the present law requirement that all construction services providers carry workers' compensation insurance on themselves. No more than five individuals associated with one business entity may be exempt pursuant to this amendment. Each person seeking the exemption must register with the Secretary of State's Office. For purposes of rulemaking, this became effective on May 20, 2013. For all other purposes, this becomes effective on January 1, 2014. Information about the Secretary of State's Workers' Compensation Exemption Registry may be found on their website at <http://tnbear.tn.gov/wc>.

THE WORKERS' COMPENSATION REFORM ACT OF 2013

Public Chapter 289 (SB0200/HB0194) separates the Division of Workers' Compensation from the Department of Labor and Workforce Development, except for administrative matters only. It defines "maximum total benefits" for injuries occurring on, or after July 1, 2014, as 450 times 100 percent of the state's average weekly wage and revises the permanent partial disability benefit formula. This law establishes an alternative dispute method for resolving claims with a workers' compensation mediator and creates the Court of Workers' Compensation Claims composed of judges for the adjudication of claims. It establishes an ombudsman program to assist employees and employers that are not represented by an attorney in a claim. It also establishes a medical payment committee and a medical advisory committee. For purposes of rulemaking, appointing the administrator of the division, appointing judges and making the division an autonomous unit, this became effective on April 29, 2013. For all other purposes, this becomes effective on July 1, 2014.

Public Chapter 282 (SB1275/HB1159) makes various changes to present law concerning workers' compensation. This becomes effective on July 1, 2014.